

Thank you for the opportunity to comment on SB 516. We strongly support passing this bill and commend the legislature for their thoughtful and deliberate process thus far. We are concerned that Section 36-1103 fails to sufficiently address the significant public health issues associated with intoxicating hemp products and recommend amendments to that section designed to better protect public health and safety.

There have been many public health warnings about the dangers associated with intoxicating hemp products, and keeping unsafe products off the market is a vital public policy goal to this bill. We appreciate the efforts to curtail the most egregious abuses in SB 516 but the policy does not go far enough. By authorizing intoxicating hemp products for legal sale, the bill legitimizes and permits potentially unsafe products to be sold without sufficient product safety regulations and in conflict with multiple federal agencies' guidance on the matter.

Origins of the problem

The issue began with the federal 2018 Farm Bill, which legalized cannabis that tests below 0.3% Delta-9 THC dry-weight by volume (aka hemp). This unintentionally opened a Pandora's Box of issues due to misunderstandings or willful misreadings of the Farm Bill's intent and other federal product safety laws. The language currently in Maryland's adult-use implementation bill is a good step forward for public safety but would also endorse many unsafe products that should not be on the market.

Unsafe products in conflict with federal food and dietary supplement rules

The 2018 Farm Bill preserved Food and Drug Administration (FDA) authority to regulate food and dietary supplements containing ingredients derived from hemp. While the FDA has not adopted specific regulations governing hemp-derived ingredients, the department has taken enforcement actions against companies that have made [egregious health and safety claims](#)¹ and called attention to [multiple deaths](#)² attributed to synthetic cannabinoid products in 2018. Additionally, intoxicating hemp products do not comply with many applicable laws that govern all consumable products, including foundational elements of our nation's product safety laws such as the Food, Drug, and Cosmetics Act (FDCA) and Current Good Manufacturing Practices (CGMP). This means that intoxicating hemp products contain unapproved ingredients that do not meet basic product safety standards, and their production is also not compliant with safety standards.

¹ <https://www.fda.gov/news-events/press-announcements/fda-issues-warning-letters-companies-illegally-selling-cbd-and-delta-8-thc-products>

² <https://www.fda.gov/news-events/press-announcements/statement-fda-warning-about-significant-health-risks-contaminated-illegal-synthetic-cannabinoid>

Federal statements and actions on the issue

Numerous federal agencies have recently come out against these dangerous products:

- **The FDA** has published a [health advisory bulletin](#)³ regarding Delta-8.
- **The Drug Enforcement Administration (DEA)** published a [statement](#)⁴ confirming that synthetic cannabinoids, such as THC-O acetate, are controlled substances regardless of whether they are derived from hemp.
- **The Substance Abuse and Mental Health Services Administration (SAMHSA)** published an [advisory](#)⁵ about the public safety dangers of unregulated CBD products, stating that the lack of regulation leads to unpredictable cannabinoid levels and the risk of dangerous contaminants, even stating that products in state-regulated dispensaries have greater oversight and standardization.
- **The Centers for Disease Control and Prevention** released a [health advisory bulletin](#)⁶ due to the proliferation of reported health incidents involving products with Delta-8.

The language in SB 516 takes a step forward but is not sufficient to protect public health and safety

As drafted, Section 36-1103 would restrict many intoxicating hemp products to sale through the adult-use market and subject them to cannabis product safety standards. While this would be a step in the right direction, state-based cannabis product safety standards are not designed to address the public health issues created by novel and synthetic cannabinoids and unproven manufacturing processes. The bill should be amended to strengthen efforts to protect public health and safety by:

- Prohibiting the production and sale of novel and synthetic cannabinoids until they are approved by the FDA, or until Maryland creates and funds a regulatory framework from hemp products that is capable of licensing and regulating the processing, sale, and distribution of hemp derived cannabinoids, including the ability to assess novel and synthetic cannabinoids' safety profile, their potential for intoxication, and manufacturing methods to ensure hemp products are safe and non-intoxicating.
- Expanding the definition of “tetrahydrocannabinol” to include the total of all THC isomers and related psychoactive cannabinoids to avoid the same mistake made by the 2018 Farm Bill, and ensure products containing low levels of Delta-9 THC and high levels of other unapproved psychoactive cannabinoids are included within regulation.
- Removing the authorization for cannabis stores to sell intoxicating hemp products produced outside of Maryland’s regulated cannabis industry and requiring the production of intoxicating cannabis products to be conducted by the licensees created by this bill.

³ <https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc>

⁴ <https://s3.documentcloud.org/documents/23608864/dea-thco-response-to-kight.pdf>

⁵ <https://store.samhsa.gov/sites/default/files/pep22-06-04-003.pdf>

⁶ https://emergency.cdc.gov/han/2021/pdf/CDC_HAN_451.pdf